

DEPARTMENT OF STATE REVENUE

LETTER OF FINDINGS NUMBER: 98-0525P
Financial Institutions Tax
Calendar Years Ended 12/31/94, 12/31/95, and 12/31/96

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ISSUE(S)

I. **Tax Administration** – Penalty

Authority: IC 6-8.1-10-2.1(d); 45 IAC 15-11-2

Taxpayer protests the penalty assessed.

STATEMENT OF FACTS

Taxpayer, in a letter dated August 31, 1998 requested a waiver of penalties for calendar years 1994, 1995, and 1996.

Taxpayer states it had filed a Financial Institution Franchise Tax Return reflecting its Indiana activities associated with its equipment leasing business. The proposed assessments are the result of the Indiana Department of Revenue determining that it is a member of a unitary group of financial corporations, therefore the auditor has changed its filing method from separate company to unitary. Taxpayer had exercised ordinary business care and prudence in the preparation and filing of its income tax returns as originally filed on a separate company basis.

I. **Tax Administration** – Penalty

DISCUSSION

At issue is whether the taxpayer was negligent in reporting and remitting Financial Institution Tax on a unitary basis.

Taxpayer states it exercised ordinary business care and prudence in the preparation and filing of its income tax returns as originally filed on a separate company basis and it was not until the auditor determined the company to be a unitary business, subject to the combined reporting requirements in Indiana. Once the determination was made, the taxpayer worked cooperatively with the auditor in providing necessary documentation. It was not the intention of the taxpayer to be non-compliant or negligent with respect to the Indiana Financial Institution Franchise Tax law. In addition to it being relatively new, taxpayers have been unsure as to how to proceed with respect to it.

45 IAC 17-3-5 requires the filing of a combined return covering all operations of a unitary business and includes all taxpayer members of the unitary group. Taxpayer's audit indicates it also had adjustments for dividend deductions, addbacks, and apportionment.

Taxpayer is a component of a large and sophisticated financial institution and the unitary filing status for these entities is basic to the Financial Institutions Tax. 45 IAC 17-3-5 was filed on January 22, 1991, and its explanation regarding taxability is clear. The audit covered 1994, 1995, and 1996. Taxpayer is sophisticated and should have been aware of the changes in tax law.

The Department finds that the taxpayer was negligent in not making itself aware of the Indiana tax laws, therefore, the request for penalty waiver is denied.

FINDING

Taxpayer's protest is denied.